

Milwaukee County Personnel Review Board

Meeting Minutes

I. Roll Call

Board President Coral D. Pleas called to order the regular meeting of the Personnel Review Board at 9:10 AM on Tuesday, October 29, 2013 in Room 609 of the Milwaukee County Courthouse.

The following Board Members were present: Ms. Coral D. Pleas, Mr. H. Fred Delmenhorst, Ms. Susan A. Lueger, Ms. Fran M. Bauer and Ms. Mary K. Bruno.

II. Approval of Minutes

Ms. Bauer moved, Mr. Delmenhorst seconded and the Board, by vote of 4-0 (Ms. Lueger abstained), approved the minutes of the October 15, 2013 meeting.

III. Communications and/or comments from the public, if any

The Board heard the report of Calvin Lee, Staff Representative, District Council 48, AFSCME, that Milwaukee County Employees' Retirement System submitted retirement notification letter of Ms. Britton effective January 24, 2013. Mr. Lee respectfully requested that all matters of Ms. Britton be removed from the Call of the Chair and asked the Board to accept her retirement. Ms. Lueger moved, Mr. Delmenhorst seconded, and the Board voted (5-0) to remove the matter of Teresa Britton from the Call of the Chair and accept her retirement effective January 24, 2013.

IV. Correspondence

Letter to Personnel Review Board advising that Milwaukee County Department Management will not process grievances involving disciplinary suspensions of 10 days or less under Sec. 17.207.

Attorney Paul Kuglitsch, Principal Assistant Corporation Counsel, legal counsel for the appointing authority asked the Board to remove the Carol Beck matter from the Board calendar on December 10, 2013. It is Milwaukee County's position that the PRB doesn't have jurisdiction to hear grievances of suspensions of 10 days or less under Sec. 17.207 of the Code of Ordinances, because suspensions are governed exclusively by Wis. Stat. 63.10.

Attorney Teresa Mambu-Rasch, Sweet and Associates, LLC, legal counsel for District Council 48, AFSCME, takes an opposite position, stating that under the "Status Quo" ordinance—M.C.O. 17.015, "Continuation of certain compensation and fringe benefits for former members of AFSCME", specifically 17.015(3)(m) "*disciplinary suspensions are not appealable under s. 63.10, Wis. Stats. (Civil Service Rules, M.C.O. 17.207 and s. 63.10, Wis. Stats.)*" Therefore, the Board would have jurisdiction to hear grievances of suspensions of 10 days or less under Sec. 17.207 of the Code of Ordinances.

After hearing the arguments presented by both parties, Mr. Delmenhorst moved, Ms. Lueger seconded, and the Board voted (5-0) to consider the matter in closed session. After deliberation in closed session, the Board reconvened in open session.

Ms. Pleas outlined the following briefing schedule:

- Corporation Counsel brief due by November 15, 2013
- Attorney Mambu-Rasch brief due by December 16, 2013
- Corporation Counsel response due by December 30, 2013

The briefs shall be filed to the attention of the Office of Personnel Review Board to be forwarded to the Board members. This matter will be scheduled for an update on January 7, 2014.

Ms. Bauer moved, Mr. Delmenhorst seconded, and the Board voted (5-0) to remove the Carol Beck matter from the calendar on Tuesday, December 10, 2013, approved the briefing schedule as outlined on the record and scheduled the Carol Beck matter for an update on Tuesday, January 7, 2014.

V. First Appearances

A. GRIEVANCE

DIANA BIAS, Correction Officer 1, HOC

The Board heard the request of Attorney Paul Kuglitsch, Principal Assistant Corporation Counsel, for the appointing authority, to set the matter for hearing certain. Attorney Teresa Mambu-Rasch, Sweet and Associates, LLC, legal counsel for District Council 48, AFSCME, agreed to setting the matter for hearing certain, but respectfully requested that the Board chose the earliest date possible. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0) scheduled this matter for hearing certain date on Tuesday, April 1, 2014.

B. DEMOTION

MELVIN FINKLEY, Correction Lieutenant, SHERIFF

The Board heard the request of Melvin Finkley, who appeared in person and represented himself, to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Melvin Finkley, that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter of Melvin Finkley for hearing date certain on Tuesday, April 15, 2014.

C. DISCHARGES

MABEL J. CARTER-MITCHELL, Certified Nursing Assistant (Pool), BHD

The Board heard the request of Calvin Lee, Staff Representative, District Council 48, AFSCME, to continue the matter of Mabel J. Carter-Mitchell for hearing certain. This continuation is made with the knowledge and consent of Mabel J. Carter-Mitchell, that she waived her right to a hearing within 21 days, pursuant to Chapter 63.10 and 63.12, Wis. Stats., and authorized District Council 48, AFSCME to represent her in all matters regarding the instant charges. Mr. Delmenhorst moved,

Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter of Mabel J. Carter-Mitchell for hearing date certain on Tuesday, April 15, 2014.

ERIN C. ERVING, Registered Nurse, BHD

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, on behalf of Susan Schwegel, Union Representative, Federation of Nurses & Health Professionals AFT, AFL-CIO, to continue the matter of Erin C. Erving for hearing certain. This continuation is made with the knowledge and consent of Erin C. Erving, who was not present that she waived her right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats., and authorized the Federation of Nurses & Health Professionals AFT, AFL-CIO represent her in all matters regarding the instant charges. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 15, 2014.

RAHSAAN J. GIBSON, Airport Maintenance Worker, DOT

The Board heard the request of Sean Moore, Human Resources Coordinator, Department of Transportation, to continue the matter of Rahsaan J. Gibson for an update report on November 26, 2013. This continuation is made with the knowledge and consent of Rahsaan J. Gibson, who was present that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, November 26, 2013.

BRITTNEY M. MASON-GORDON, Juvenile Correction Officer, DHHS

Attorney Teresa Mambu-Rasch, Sweet and Associates, LLC, legal counsel for District Council 48, AFSCME argued on the record that since the charges were not filed in a timely fashion, the Board does not have jurisdiction to hear the matter and that the Board should dismiss the case and reinstate Ms. Mason-Gordon. Attorney Mambu-Rasch stated that Milwaukee County Ordinance 33.3 (3) mandates that the Board adopt rules and regulation to properly conduct hearings to protect the individual due process rights, in the goal of the United States and Wisconsin Constitution. In doing so, the Personnel Review Board's Rules of Procedures, Rule V, Section 2(b) and Rule VI, Section 9 which respectively guarantee certain time limits and protect the rights of any party even the Board to object the subject matter jurisdiction at any time and personal jurisdiction. The Personnel Review Board does not have jurisdiction when charges are not timely filed. Attorney Lee Jones, Principal Assistant Corporation Counsel for the appointing authority did not dispute the facts that were laid out in the motion.

After hearing the statements presented by the parties, Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board voted (5-0) to consider the matter in closed session. After deliberation in closed session, the Board reconvened in open session.

Ms. Lueger moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0) found the charges were not timely filed to sustain violations of Civil Service Rule VII, Section 4(1), paragraphs (l), (y), and (z), and dismissed the charges for discharge. Brittney M. Mason-Gordon is to be reinstated effective October 29, 2013 with back pay for the time period of October 3, 2013 to October 29, 2013, less unemployment compensation and worker's compensation previously paid to Ms. Mason-Gordon during the period for which back pay is awarded.

GERALD SPINA, EMS Instructor, BHD – EMS Division

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Gerald Spina called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Gerald Spina, who was not present that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 15, 2014.

TAMICA M. WEBB, Certified Nursing Assistant (Pool), BHD

(Refer to Agenda item VI C for the Decision)

D. SUSPENSIONS

TIFFANY A. ADAMS, Registered Nurse (Pool), SHERIFF

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Tiffany A. Adams called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Tiffany A. Adams, who was not present, that she waived her right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 29, 2014.

JONATHAN O.A. BABALOLA, Dispatcher, SHERIFF

SUS dated 10/17/13 for IA # 13-197 for 10 days

SUS dated 10/17/13 for IA # 13-272 for 10 days

SUS dated 10/17/13 for IA # 13-273 for 15 days

SUS dated 10/17/13 for IA # 13-274 for 20 days

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Jonathan O.A. Babalola called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Jonathan O.A. Babalola, who was not present that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 29, 2014.

OCELL A. CARR, Correction Officer 1, SHERIFF

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Ocell A. Carr called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Ocell A. Carr, who was not present, that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 29, 2014.

KATHERINE ESTRADA, Correction Officer 1, SHERIFF

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Katherine Estrada called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Katherine Estrada, who was not present, that she waived her right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, April 29, 2014.

SHAUNTA S. FINLEY, Correction Officer 1, SHERIFF

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Shaunta S. Finley called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Shaunta S. Finley, who was not present, that she waived her right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, May 13, 2014.

JEREMIAH M. KING, Correction Officer 1, SHERIFF

SUS dated 10/17/13 for IA # 13-224 for 10 days

SUS dated 10/17/13 for IA # 13-225 for 15 days

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Jeremiah M. King called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Jeremiah M. King, who was not present, that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Ms. Lueger moved, Mr. Delmenhorst seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, May 13, 2014.

SPENSER T. MOODY, Correction Officer 1, SHERIFF

The Board heard the report of Charmaine Gee, Administrative Assistant, Office of the Personnel Review Board, that the employee Spenser T. Moody called the Office of the Personnel Review Board and requested to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Spenser T. Moody, who was not present, that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Ms. Lueger moved, Mr. Delmenhorst seconded, and the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, May 13, 2014.

LATOYA A. RENFRO, Correction Officer 1, SHERIFF

(Refer to Agenda item VI C for the Decision)

LEON WOODS, Correction Officer 1, SHERIFF

The Board heard the request of Leon Woods to continue the matter for hearing certain. This continuation is made with the knowledge and consent of Leon Woods, who was present, that he waived his right to a hearing within 21 days, pursuant to Chapters 63.10 and 63.12, Wis. Stats. Ms. Lueger moved, Ms. Bauer seconded, and

the Board, by unanimous vote (5-0), continued the matter for hearing date certain on Tuesday, May 13, 2014.

VI. Hearings

A. DISCHARGE & SUSPENSIONS

BARBARA N. DUNCAN, Correction Officer 1, SHERIFF

DIS dated 02/22/13 for IA # 13-034

SUS dated 09/13/12 for IA # 12-252 for 20 days

SUS dated 09/13/12 for IA # 12-286 for 10 days

These matters were scheduled for joint hearing certain. The Board heard the request of Attorney Lee Jones, Principal Assistant Corporation Counsel for the appointing authority to reschedule all matters of Barbara Duncan for joint hearing certain, due to unavailability of witnesses. Attorney Teresa Mambu-Rasch, Sweet and Associates, LLC, legal counsel for District Council 48, AFSCME, did not object. Ms. Lueger moved, Mr. Bauer seconded, and the Board, by unanimous vote (5-0) continued the matter for hearing date certain on Tuesday, May 27, 2014.

B. SUSPENSIONS

RUBY A. LITTLE, Certified Nursing Assistant, BHD

Ms. Bauer moved, Mr. Delmenhorst seconded, and the Board, by unanimous vote (5-0), accepted the waiver of suspension at the request of Ruby A. Little and closed this case.

MATTHEW M. MONREAL, Correction Officer 1, SHERIFF

The Board heard the report of David Rugaber, Captain, House of Correction, that the parties had reached oral resolution agreement. Attorney Lee Jones, Principal Assistant Corporation Counsel for the appointing authority, concurred.

The terms of the oral agreement are as follows:

- The charges are well founded.
- The 15-day suspension shall be reduced to a 5-day suspension.

Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0), accepted the oral agreement and closed this case.

YAGHNAM F. YAGHNAM, Correction Officer 1, SHERIFF

(Refer to Agenda item VI C for the Decision)

RICHARD W. YANG, Correction Officer 1, SHERIFF

(Refer to Agenda item VI C for the Decision)

C. HEARINGS

The Board heard the Yaghnam F. Yaghnam matter. At 12:34 PM, Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board voted (5-0) to go into closed session to deliberate the Yaghnam F. Yaghnam matter and go to lunch. Mr. Delmenhorst moved, Ms. Bruno seconded, and the Board voted (5-0) to come out of closed session at 1:56 PM.

YAGHNAM F. YAGHNAM, Correction Officer1, SHERIFF

Mr. Delmenhorst moved, Ms. Lueger seconded, and the Board, by vote (3-2; Ms. Pleas and Ms. Bauer dissenting) found the evidence was sufficient to sustain violations of Civil Service Rule VII, Section 4(1), paragraph (l). Mr. Delmenhorst moved, Ms. Lueger seconded, and the Board, by vote (3-2; Ms. Pleas and Ms. Bauer dissenting) found the penalty of a 5-day suspension too severe and reduced the penalty to a 3-working-day suspension.

At 2:01 PM, Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board voted (5-0) to go into closed session to hear the Latoya A. Renfro matter. At 2:57 PM, Mr. Delmenhorst moved, Ms. Bruno seconded, and the Board voted (5-0) to come out of closed session.

The Board next heard the Tamica M. Webb matter.

The Board next heard the Richard W. Yang matter.

At 3:56 PM, Ms. Bauer moved, Mr. Delmenhorst seconded, and the Board voted (5-0) to go into closed session to deliberate the Latoya A. Renfro, Tamica M. Webb and Richard W. Yang matters.

LATOYA A. RENFRO, Correction Officer 1, SHERIFF

Ms. Bauer moved, Mr. Delmenhorst seconded, and the Board, by unanimous vote (5-0) found the evidence was sufficient to sustain violations of Civil Service Rule VII, Section 4(1), paragraphs (l) and (o), and upheld the penalty of a 18-day suspension.

TAMICA M. WEBB, Certified Nursing Assistant (Pool), BHD

Ms. Bruno moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0) found the evidence was sufficient to sustain violations of Civil Service Rule VII, Section 4(1), paragraphs (i), (l), (t), (u) and (ee), and upheld the discharge.

RICHARD W. YANG, Correction Officer 1, SHERIFF

Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by unanimous vote (5-0) found the evidence was sufficient to sustain violations of Civil Service Rule VII, Section 4(1), paragraphs (l) and (o), and upheld the penalty of a 7-day suspension.

Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board voted (5-0) to come out of closed session at 4:09 PM.

VII. Adjournment

Mr. Delmenhorst moved, Ms. Bauer seconded, and the Board, by vote of 5-0, adjourned the meeting at 4:11 PM.

Minutes submitted by: Charmaine J. Gee, Interim Executive Secretary